IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FIRST DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 3081 of 2005

Between:

M. Babu Rao, s/o Hanumantha Rao,
Devarakonda Bus Depot, Nalgonda District.

..... PETITIONER

AND

1 The Depot Manager, APSRTC, Devarakonda Bus Depot,

Nalgonda District.
2 The Regional Manager, APSRTC,

Nalgonda Region at Nalgonda.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or order or direction more particularly one in the nature of Writ or order or direction more particularly one in the nature of Writ of mandamus declaring that the action of the respondent in imposing the punishment of Postponing of annual increment for a period of two years which shall have effect on petitioners future increments as illegal, arbitrary, unjust and unreasonable and violative of principles of natural justice and also contrary to the judgments of this Hon'ble Court and Apex Court by setting aside the final Order No. 02/104(50)/92-DVK dated 17-11-1992 of the respondent No.1 herein and consequently direct the respondents to add the increments which were postponed.

Counsel for the Petitioner: MR.P.VENKATESWAR RAO

Counsel for the Respondents: MR.V.T.M.PRASAD

The Court at the admission stage made the following O R D E R:

The petitioner was working as a Conductor in the respondent-Corporation. He was issued a charge sheet on 22.10.1992 and after receiving the explanation of the petitioner, final orders were passed on 17.11.1992 imposing the punishment of postponing the annual increment for a period of two years with cumulative effect. The petitioner questioned the order on the ground that reduction of two annual increments with cumulative effect is a major penalty and the respondent passed the impugned order without conducting any enquiry as required under the rules. Therefore, the impugned order is illegal and it is liable to be set aside.

Learned counsel for the petitioner relied on a Judgment of the Supreme Court in **Kulwant Singh Gill v. Sate of Punjab** wherein the Supreme Court held that since the punishment imposed on the petitioner is a major punishment, the order cannot be sustained without enquiry. The petitioner, therefore, seeks to declare that the order is illegal and it is liable to be set aside.

The petitioner after receiving the adverse orders slept over the matter for a period of 12 years. There are laches on his part in asserting his right regarding this issue. Though the impugned order is liable to be set aside on account of long lapse of time, in view of the judgment of the Supreme Court in Kulwant Singh Gill's case (1 supra), I am of the view that it would be appropriate if the punishment imposed on the petitioner is treated as reduction of two annual increments without cumulative effect. The petitioner is not entitled for the difference of the amount, if any, by virtue of this order for the period from the date of the impugned order till the date of this order. But, he is entitled to get increments on notional calculation from the date of this order to which he is entitled, as he has been imposed penalty of reduction of two annual increments without cumulative effect.

The writ petition is accordingly disposed of with the above observation. No costs.

21.02.2005

usd

To

1 The Depot Manager, APSRTC, Devarakonda Bus Depot,

Nalgonda District.
2 The Regional Manager, APSRTC,

Nalgonda Region at Nalgonda.

3 2 CD copies

THE HON'BLE MR JUSTICE K.C. BHANU

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WRIT PETITION NO : 3081 of 2005

Dated: 21-02-2005

vs